

AMENDED IN SENATE JUNE 27, 2013

AMENDED IN SENATE JUNE 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 69

Introduced by Assembly Member Perea

January 10, 2013

~~An act to amend Section 14611 of, and to add Article 13 (commencing with Section 14690) to Chapter 5 of Division 7 of, the Food and Agricultural Code, and to add Section 13169.5 to, and to add and repeal Article 4 (commencing with Section 13444) of Chapter 6 of Division 7 of, the Water Code, relating to water, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 69, as amended, Perea. Groundwater: drinking water: Nitrate at Risk Fund.

(1) Existing law establishes the State Water Resources Control Board, or state board, and 9 California regional water quality control boards, and authorizes the state board to adopt regulations to carry out its powers and duties. Under existing law, the Porter-Cologne Water Quality Control Act, the state board is required to formulate and adopt state policy for water quality control. Under existing law the state board is further authorized to develop and implement a groundwater protection program consistent with federal law.

This bill would require the state board, in collaboration with the regional boards, and state and local agencies that collect water quality data or information, to develop a public information program on matters

involving groundwater quality monitoring and assessment, as specified, and would also require the state board to develop and maintain on its Internet Web site, in a format accessible to the general public, an information file with specific information on groundwater quality.

~~(2) Existing law requires a person who manufactures or distributes fertilizing materials to obtain a license from the Secretary of Food and Agriculture. Under existing law, a licensee whose name appears on the label who sells or distributes bulk fertilizing materials is required to pay specified fees for each dollar of sales, including an amount not to exceed \$0.001 per dollar of sales for all sales of fertilizing materials, to provide funding for research and education regarding the use and handling of fertilizing material.~~

~~This bill would expand the assessment to all commercial or retail sales of fertilizing materials by any person. This bill would require a seller of fertilizing materials to remit the assessment to the Department of Food and Agriculture for deposit in the Fertilizer Research and Education Program Fund that this bill would create. This bill would continuously appropriate this fund, without regard to fiscal years, to the department to provide funding for research and education regarding the use and handling of fertilizing materials.~~

~~(3)~~

~~(2) Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adopting enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.~~

~~This bill would establish the Nitrate at Risk Fund, to be administered by the department. This bill would continuously appropriate, without regard to fiscal years, the fund to the department for the purposes of loans, principal forgiveness loans, or grants to certain water systems *operating in a high-nitrate at-risk area* for specified purposes. This bill would require a person who purchases nitrogen fertilizer materials in California to pay a nitrogen fertilizer materials charge, until January 1, 2016, of \$0.01 per dollar of materials, and on and after January 1, 2016, the department may increase the amount of the charge, as specified, to an amount no greater than \$0.04 per dollar of materials if 80% of the moneys in the fund are committed. This bill would require a seller of~~

nitrogen fertilizer materials to remit the nitrogen fertilizer materials charge to the department to be deposited in the fund. This bill would prohibit the fertilizer materials charge from being imposed when the department determines that the fund contains more than \$100,000,000 and less than \$50,000,000 of the moneys in the fund are committed. This bill would require the state board, on or before January 1, 2022, to submit a report to the Legislature that includes specified information relating to the fund and contaminated drinking water. This bill would repeal these provisions on January 1, 2024.

(3) *The bill would declare that it is to take effect immediately as an urgency statute.*

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 14611 of the Food and Agricultural Code~~
2 ~~is amended to read:~~
3 ~~14611. A licensee whose name appears on the label who sells~~
4 ~~or distributes bulk fertilizing materials, as defined in Sections~~
5 ~~14517 and 14533, to unlicensed purchasers, shall pay to the~~
6 ~~secretary an assessment not to exceed two mills (\$0.002) per dollar~~
7 ~~of sales for all fertilizing materials. A licensee whose name appears~~
8 ~~on the label of packaged fertilizing materials, as defined in Sections~~
9 ~~14533 and 14551, shall pay to the secretary an assessment not to~~
10 ~~exceed two mills (\$0.002) per dollar of sales. The secretary may,~~
11 ~~based on the findings and recommendations of the board, reduce~~
12 ~~the assessment rate to a lower rate that provides sufficient revenue~~
13 ~~to carry out this chapter.~~
14 ~~SEC. 2. Article 13 (commencing with Section 14690) is added~~
15 ~~to Chapter 5 of Division 7 of the Food and Agricultural Code, to~~
16 ~~read:~~
17
18 ~~Article 13. Fertilizer Research and Education Program~~
19
20 ~~14690. (a) The secretary may impose an assessment in an~~
21 ~~amount not to exceed one mill (\$0.001) per dollar of sales for all~~
22 ~~commercial or retail sales of fertilizing materials by any person,~~
23 ~~to provide funding for research and education regarding the use~~
24 ~~and handling of fertilizing material, including, but not limited to,~~

1 support for the University of California Cooperative Extension,
2 the California resource conservation districts, other California
3 institutions of postsecondary education, or other qualified entities
4 to develop programs in the following areas:

5 (1) Technical education for users of fertilizing materials in the
6 development and implementation of nutrient management projects
7 that result in more agronomically sound uses of fertilizing materials
8 and minimize the environmental impacts of fertilizer use, including,
9 but not limited to, nitrates in groundwater and emissions of
10 greenhouse gases resulting from fertilizer use.

11 (2) Research to improve nutrient management practices resulting
12 in more agronomically sound uses of fertilizing materials and to
13 minimize the environmental impacts of fertilizer use, including,
14 but not limited to, nitrates in groundwater and emissions of
15 greenhouse gases resulting from fertilizer use.

16 (3) Education to increase awareness of more agronomically
17 sound use of fertilizer products to reduce the environmental impacts
18 resulting from the overuse or inefficient use of fertilizing materials.

19 (b) Notwithstanding Section 14503, a seller of fertilizing
20 materials shall remit the assessment imposed pursuant to
21 subdivision (a) to the department for deposit in the Fertilizer
22 Research and Education Program Fund that is hereby established
23 in the State Treasury. Notwithstanding Section 13340 of the
24 Government Code, moneys in the Fertilizer Research and
25 Education Program Fund are continuously appropriated, without
26 regard to fiscal years, to the department for the purposes of this
27 section.

28 SEC. 3.

29 SECTION 1. Section 13169.5 is added to the Water Code, to
30 read:

31 13169.5. (a) The state board, in collaboration with the regional
32 boards, and state and local agencies that collect water quality data
33 or information, shall develop a public information program on
34 matters involving groundwater quality monitoring and assessment
35 throughout the state by utilizing existing data, including
36 groundwater ambient monitoring and assessment results, along
37 with the collection of new information as needed.

38 (b) The state board shall develop and maintain on its Internet
39 Web site, in a format accessible to the general public, an
40 information file on groundwater quality monitoring, assessment,

1 research, standards, regulation, enforcement, and other pertinent
2 matters.

3 ~~SEC. 4.~~

4 SEC. 2. Article 4 (commencing with Section 13444) is added
5 to Chapter 6 of Division 7 of the Water Code, to read:

6
7 Article 4. Nitrate at Risk Fund
8

9 13444. The Nitrate at Risk Fund is hereby established in the
10 State Treasury, to be administered by the State Department of
11 Public Health. Notwithstanding Section 13340 of the Government
12 Code, moneys in the Nitrate at Risk Fund are continuously
13 appropriated, without regard to fiscal years, to the State Department
14 of Public Health for the purposes described in Section 13446.

15 13445. (a) For purposes of this section, “fertilizer materials
16 charge” means the charge imposed pursuant to subdivision (b).

17 (b) (1) A person who purchases fertilizer materials in California,
18 including, but not limited to, all commercial or retail sales of
19 fertilizer materials for agricultural or urban uses, shall pay a
20 fertilizer materials charge as follows:

21 (A) Until January 1, 2016, a charge of \$0.01 per dollar of
22 materials.

23 (B) On and after January 1, 2016, the State Department of Public
24 Health may increase the amount of the charge to an amount no
25 greater than \$0.04 per dollar of materials if 80 percent of the
26 moneys in the Nitrate at Risk Fund are committed. In determining
27 the amount of the charge, the State Department of Public Health
28 shall consider the demand for the moneys in the Nitrate at Risk
29 Fund. *The adoption or revision of the charge pursuant to this*
30 *subparagraph is exempt from Chapter 3.5 (commencing with*
31 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
32 *Code. In determining the charge, the State Department of Public*
33 *Health shall allow stakeholder participation and make available*
34 *to the public the information upon which the State Department of*
35 *Public Health calculates, bases, or determines the charge.*

36 (2) A seller of fertilizer materials shall remit the fertilizer
37 materials charge to the State Department of Public Health to be
38 deposited in the Nitrate at Risk Fund.

39 (c) The fertilizer materials charge shall not be imposed when
40 the State Department of Public Health determines that the Nitrate

1 at Risk Fund contains more than one hundred million dollars
2 (\$100,000,000) and less than fifty million dollars (\$50,000,000)
3 of the moneys in the Nitrate at Risk Fund are committed.

4 13446. (a) Moneys in the Nitrate at Risk Fund shall be used
5 for loans, principal forgiveness loans, or grants to a water system
6 *operating in a high-nitrate at-risk area* that is ~~either a one of the~~
7 *following*:

8 (1) A small community water system serving a disadvantaged
9 ~~community or an~~ community.

10 (2) An unregulated system of 2 to 15, inclusive, service
11 connections.

12 (3) A *nontransient noncommunity water system owned by a*
13 *public agency*.

14 (b) Moneys in the Nitrate at Risk Fund may be used for any of
15 the following purposes:

16 (1) Preplanning drinking water projects.

17 (2) Planning drinking water projects.

18 (3) Interim water solutions.

19 (4) Constructing drinking water projects.

20 (5) Operating and maintaining drinking water systems. The
21 State Department of Public Health shall ensure that moneys used
22 for the purposes of this paragraph are for the operation and
23 maintenance of drinking water systems in communities that have
24 a substantial need and otherwise would not be able to afford to
25 operate or maintain their systems. *The State Department of Public*
26 *Health shall ensure that moneys available for the operation and*
27 *maintenance of a particular drinking water system pursuant to*
28 *this paragraph shall not be permanent and shall be phased out*
29 *over time*.

30 (c) Moneys in the Nitrate at Risk Fund shall not be used for
31 loans, principal forgiveness loans, or grants to a water system that
32 is a small community water system for the purposes of either
33 paragraph (2) or (4) of subdivision (b) unless no other funding
34 source is available to that system for that purpose.

35 13447. (a) On or before January 1, 2022, the state board, in
36 consultation with any other state entity or research institution as
37 appropriate, shall submit to the Legislature a report that includes
38 all of the following information:

39 (1) Communities that rely on contaminated drinking water as a
40 primary source of drinking water.

1 (2) The principal contaminants and other constituents of concern
2 affecting groundwater and contamination levels in the groundwater
3 sources for the communities described in paragraph (1).

4 (3) Potential solutions and funding sources to clean up or treat
5 groundwater or to provide alternative water supplies to ensure the
6 provision of safe drinking water to communities identified in
7 paragraph (1).

8 (4) The effect of the use of the moneys in the Nitrate at Risk
9 Fund for the purposes described in Section ~~13445~~ 13446 on nitrate
10 contaminated groundwater used as a source of drinking water.

11 (b) A report to be submitted pursuant to subdivision (a) shall
12 be submitted in compliance with Section 9795 of the Government
13 Code.

14 13448. If the responsibility for administering Chapter 4
15 (commencing with Section 116270) of Part 12 of Division 104 of
16 the Health and Safety Code is transferred to the state board, the
17 state board shall succeed to and is vested with all of the authority,
18 duties, powers, responsibilities, and jurisdiction of the State
19 Department of Public Health pursuant to this article.

20 13449. This article shall remain in effect only until January 1,
21 2024, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, 2024, deletes or extends that date.

23 *SEC. 3. This act is an urgency statute necessary for the*
24 *immediate preservation of the public peace, health, or safety within*
25 *the meaning of Article IV of the Constitution and shall go into*
26 *immediate effect. The facts constituting the necessity are:*

27 *To address the public health problem of nitrate contaminated*
28 *drinking water as soon as possible, it is necessary for this act to*
29 *take effect immediately.*